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#### COVER NOTE

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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	12 December 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	SWD(2018) 487 final
Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT Accompanying the document Proposal for a Council Directive amending Directive 2006/112/EC as regards introducing certain requirements for payment service providers and Proposal for a Council Regulation amending Regulation (EU) No 904/2010 as regards measures to strengthen administrative cooperation in order to combat VAT fraud

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Delegations will find attached document SWD(2018) 487 final.

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Encl.: SWD(2018) 487 final



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**COMMISSION STAFF WORKING DOCUMENT**  
**EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT**

*Accompanying the document*

**Proposal for a Council Directive amending Directive 2006/112/EC as regards  
introducing certain requirements for payment service providers**

**and**

**Proposal for a Council Regulation amending Regulation (EU) No 904/2010 as regards  
measures to strengthen administrative cooperation in order to combat VAT fraud**

{COM(2018) 812 final} - {COM(2018) 813 final} - {SEC(2018) 495 final} -  
{SWD(2018) 488 final}

## Executive Summary Sheet

Impact assessment on the proposal for a mandatory transmission and exchange of VAT-relevant payment data

### A. Need for action

#### Why? What is the problem being addressed?

The problem is e-commerce VAT fraud. The VAT loss on cross-border business-to-consumer (B2C) supplies of goods EU wide is estimated at around EUR 5 billion annually. There are no EU-wide estimations of the VAT fraud linked to cross-border B2C supplies of services, but only sectorial documented evidence on broadcasting and online games. Without an EU intervention, such losses are likely to increase with the growth of e-commerce. E-commerce VAT fraud is a real challenge for Member States' tax administrations because they have little information to identify the online businesses, especially when they are established in another country; the necessary information to assess VAT liabilities is held by third parties (such as payment service providers) that are often established in another jurisdiction; the tax administrations do not have the administrative capacity to deal with and exchange between each other the massive volume of information needed to control and fight against the e-commerce VAT fraud. E-commerce VAT fraud affects the Member States' and EU budgets, legitimate EU businesses that suffer the unfair competition, and EU citizens in terms of reduced resources to be invested in public services.

#### What is this initiative expected to achieve?

The general objectives of the initiative are to reduce the VAT loss for the Member States, thus contributing to the fiscal consolidation within the EU and to level the playing field for the legitimate businesses in the EU that suffer from unfair competition by fraudsters. The specific objective is to reduce e-commerce VAT fraud by providing tax authorities with efficient and effective instruments for detecting non-compliant businesses.

#### What is the value added of action at the EU level?

Member States alone do not have the means to combat e-commerce VAT fraud that, by definition, has a cross-border dimension. VAT administrative cooperation rules in the EU are laid down in Council Regulation (EU) 904/2010 on administrative cooperation and fight against VAT fraud and, thus, further initiative in this field should be framed within that same Regulation.

### B. Solutions

#### What legislative and non-legislative policy options have been considered? Is there a preferred choice or not? Why?

In the baseline scenario (option 1) the EU Member States follow different approaches to fight against VAT fraud in the e-commerce and only some of them collect data from online intermediaries. Under the non-regulatory option (Option 2) the European Commission will help tax authorities to develop their administrative capacity to fight VAT fraud in e-commerce and will publish guidelines in order to enhance the cooperation between tax authorities and payment intermediaries. The regulatory option (option 3) implies amending the EU legal framework for the payment service providers to transmit the relevant payment data to the tax authorities; for the tax authorities to 1) collect the payment data and carry out a risk analysis to detect remote suppliers not complying with VAT obligations, and 2) to exchange or share these data with other Member States' tax authorities. Under the regulatory option, different alternative technical solutions are envisaged to make tax authorities exchange or share the relevant payment data. One solution implies an automated access to the databases of the other Member States, while the three other solutions imply a central repository of payment data at EU level accessible to anti-fraud officials of the Member States. The preferred option is the regulatory solution referring to a central EU repository.

#### Who supports which option?

18 tax authorities (out of 23 respondents) support the regulatory option and in particular the central repository. The payment service providers (3 out of 3) support the regulatory option. 38 respondents to the open public consultation (out of 52) support the regulatory option.

### **C. Impacts of the preferred option**

#### **What are the benefits of the preferred option (if any, otherwise main ones)?**

The Member States' and EU budgets will benefit from the fight against e-commerce VAT fraud in terms of higher VAT revenues. The higher VAT revenues also represent a benefit for the EU Citizens, because additional public income can be invested in public services. European legitimate business will benefit from a more level playing field. Unfortunately, the consultation with the major stakeholders did not provide the necessary quantitative evidence.

#### **What are the costs of the preferred option (if any, otherwise main ones)?**

The payment service providers will have to face administrative burdens and costs to report payment data to tax authorities. Each tax administrations will bear a one-off cost of EUR 7.5 million and recurrent costs in terms of EUR 2.9 million a year. The European Commission will bear a one-off cost of EUR 11.8 million and recurrent costs of EUR 4.5 million a year.

#### **How will businesses, SMEs and micro-enterprises be affected?**

The harmonisation of reporting requirements will have a beneficial impact on any SMEs providing payment services which, otherwise, will have to deal with different reporting rules and procedure to tax authorities in the Member States. Finally, SME's in the e-commerce and in the traditional economy will benefit from the more level playing field whereby Member States' tax authorities will be able to detect e-commerce VAT fraudsters

#### **Will there be significant impacts on national budgets and administrations?**

The payment data will allow tax authorities to collect additional VAT from the fight against the e-commerce VAT fraud. This positive impact on national budgets is expected in the short term.

#### **Will there be other significant impacts?**

Personal data will be processed to a certain extent by national authorities in order to fight e-commerce VAT fraud, in line with the General Data Protection Regulation.

### **D. Follow up**

#### **When will the policy be reviewed?**

The Commission will monitor the application of the new system for the exchange of payment data through the annual report of Eurofisc and the annual statistics for the exchange of information submitted by the Member States. Finally, after 5 years from the entry into force the Commission will report to the European Parliament and the Council on the application of the system.